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UNCLAS SECTION 01 OF 11 STATE 016231

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TAGS: [PREL](#) [PHUM](#) [UN](#)

SUBJECT: USG PRIORITIES FOR MARCH U.N. HUMAN RIGHTS
COUNCIL SESSION

REF: A. (A) STATE 109397
[1](#)B. (B) STATE 111466
[1](#)C. (C) STATE 12108

[1](#)1. (U) This is an action request. See paras. 3-4.

SUMMARY

12. (SBU) The United Nations Human Rights Council (HRC) will hold its 13th regular session in Geneva on March 1-26, 2010. The first week of the session will be a high-level segment; Under-Secretary for Democracy and Global Affairs, Maria Otero, will attend to represent the United States during this portion and is scheduled to make a statement on Wednesday, March 3, 2010. The USG seeks to engage other governments and delegations in Geneva on six top priorities for the March HRC Session, including: (1) advancing a consensus-based approach on racial and religious intolerance; (2) gaining support for a resolution on the human rights situation in Guinea; (3) renewing and strengthening the existing special procedures mandate for the Democratic Republic of Congo (DRC); (4) managing fallout resulting from the Goldstone Report on alleged violations of international humanitarian and human rights law committed during the winter 2008/2009 conflict in Gaza ; (5) registering support for HRC action spotlighting human rights abuses in Iran; and (6) renewing country-specific special procedures mandates for DPRK and Burma. END SUMMARY.

ACTION REQUEST

13. (SBU) For Mission Geneva: Drawing on the suggested talking points in para. 5 and background available in paragraphs 6-11, Mission is requested to engage delegations from the 46

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other HRC members to garner support for USG priorities.

14. (SBU) For Embassies Luanda, Buenos Aires , Manama, Dhaka, Brussels, La Paz, Sarajevo, Brasilia, Ouagadougou, Younde, Santiago, Beijing, Havana, Djibouti, Cairo, Paris, Libreville, Accra, Budapest, New Delhi, Jakarta, Rome, Tokyo, Amman, Bishkek, Antananarivo, Port Louis, Mexico City, Amsterdam, Managua, Abuja, Oslo, Islamabad, Manila, Doha, Seoul, Moscow, Riyadh, Dakar, Bratislava, Ljubljana, Pretoria, Kyiv, London, Montevideo, Lusaka: Posts are requested to engage host governments at the appropriate level to garner support for USG priorities. See para. 5 for suggested talking points and paras. 6-11 for background, which include specific notes for some capitals. Reftels noted are available at the IO-HR sharepoint site at: <http://io.p.state.sbu/HR/>.

SUGGESTED TALKING POINTS

15. (SBU) Begin suggested talking points:

-- Express U.S. commitment to (1) defending the universality of human rights and the responsibility of governments to respect the rights of their people; (2) defending the independence of UN human rights mechanisms, including human rights monitoring and assistance functions; (3) reinforcing the Council's credibility, including working to remove the systemic bias in the HRC against Israel; (4) advancing the principles of accountability, transparency, and good governance in the work of the HRC.

-- Emphasize that we are consulting with host governments in advance of the session not only because we hope to work closely with them on key human rights initiatives, but also to enable us to take their views into account as we shape our own positions.

-- Stress the importance of strengthening human rights in country-specific situations. Emphasize our concern that the HRC address these types of situations to bolster its

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credibility on the ground.

Specific initiatives in March 2010 HRC session:

-- Religious and Racial Intolerance: Solicit host country support for an action-oriented approach that a) acknowledges the concerns of both the OIC and members of the African Group regarding persistent discrimination against Muslims, and b) promotes concrete actions that governments can undertake now to make immediate progress on issues of discrimination, hate crimes, and the promotion of mutual respect. Urge host country to not support the defamation resolution and ensure the ad hoc committee resolution does not call for a binding treaty. A copy of the U.S. proposal is available on the IO/HR intranet website under &HRC 13th Session8 at <http://io.p.state.sbu/HR/>.

-- Guinea: Seek support for a resolution addressing the situation, focusing on opportunities for technical assistance and safeguards to strengthen the new government,s ability to effectively promote and protect human rights.

-- Democratic Republic of the Congo (DRC): Convey our disappointment that the technical assistance-oriented special procedures mandate for the DRC was not renewed in 2008 and solicit thoughts on reinstating a focused, country-specific mandate or extending the existing combined thematic mandate regarding human rights in the DRC.

-- Goldstone Report: Convey our concerns that the attention generated by the Goldstone Report harms Special Envoy Mitchell,s peace efforts. Continue to express our concern with the deeply flawed Goldstone report. Note that UN Secretary-General Ban,s February 4 report observes that the processes initiated by Israel to investigate alleged violations are ongoing and that the Palestinian side only recently initiated its investigative effort. The report concludes: &As such, no determination can be made on the implementation of the resolution by the parties concerned.8 Express our belief that additional Goldstone-related resolutions now in the Human Rights Council serve no useful

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purpose when both Israelis and Palestinians need more time to carry out their domestic investigations. If a resolution cannot be avoided, it should be minimalist and purely technical, calling on the parties to continue their domestic investigations without setting an artificial timeline for them to complete those investigations.

-- Iran: Convey our deep concern with the situation of human rights in Iran, particularly the continuing abuses following the June 12, 2009 presidential elections. Solicit thoughts on a resolution or other HRC action addressing the ongoing human rights abuses in Iran. Reiterate our hope that Iran not be elected to the Human Rights Council as doing so would undermine the credibility of this body. (See septel cable on HRC elections for additional information forthcoming on the IO/HR intranet site at <http://io.p.state.sbu/HR/>.)

-- DPRK and Burma: Reiterate that the special procedures mandates for DPRK and Burma will expire in March, requiring the HRC to act to renew them. Seek support for the EU-led effort to renew these special rapporteurs without weakening their mandates.

-- Solicit additional information on resolutions the host government is planning to introduce or support.

TOP PRIORITIES

16. (SBU) Advancing a consensus-based approach on racial and religious intolerance: The USG seeks to prevent further progress toward a binding treaty banning &defamation of religions8 and weaken momentum for the annual HRC resolutions calling for bans on defamation. More background on the defamation resolutions sponsored by the Organization

of the Islamic Conference (OIC) each year during the March HRC session and during the fall in the UN General Assembly,s Third Committee is available via reftel A, and on the IO/HR intranet website under &HRC 13th Session.8 For more information on the potential treaty to ban &defamation of religion,8 please see reftel B and the IO/HR intranet

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website at <http://io.p.state.sbu/HR/>.

We expect that the OIC will again run its &defamation8 resolution this March, and that the governments of Nigeria (in its role as chair of the African Group in Geneva) and South Africa may run a resolution on the &Ad Hoc Committee on Complementary Standards,8 the body in which these governments and others are advocating for a binding treaty banning defamation (in the form of an optional protocol to the International Convention on the Elimination of Racial Discrimination). Rather than continue down the divisive and discredited path of more &defamation8 resolutions and disagreements about the utility of a treaty to ban criticisms of religion, the USG hopes to unite HRC members at this March session behind an action-oriented approach (as highlighted in our first talking point) that a) acknowledges the concerns of both the OIC and members of the African Group regarding persistent discrimination against members of religious minorities, including Muslims, and b) promotes concrete actions that governments can undertake now to make immediate progress on issues of discrimination, hate crimes, and the promotion of mutual respect. A U.S. proposal, which includes elements of a potential resolution, is circulating in Geneva.

A PDF copy of these elements and the associated &Action Plan to Combat Racial and Religious Discrimination and Intolerance8 is available at he IO/HR intranet site under &HRC 13th Session8 at <http://io.p.state.sbu/HR/>. Posts are encouraged to provide this proposal to the host government, as appropriate.

17. (SBU) Gaining support for a resolution on the human rights situation in Guinea: The USG, working in coordination with the Guinean delegation in Geneva and Nigeria as Chair of the African Group, aims to secure a broadly supported resolution addressing the situation of human rights in Guinea. Given the progress in installing a transitional government since the events of September 28, 2009, we expect that a resolution would focus on opportunities for technical assistance and safeguards to strengthen the new government,s ability to effectively promote and protect human rights. Securing a resolution addressing this event and the broader situation of

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human rights in Guinea will require consent from Guinea and leadership from the Africa Group; the USG has secured provisional support from the Guinean delegation in Geneva and a verbal commitment from the Nigerian mission to Geneva to lead and sponsor a resolution, and we are pursuing the confirmation/endorsement of those in capitals. Having the HRC address the human rights situation in Guinea is critical to building the Council,s credibility in addressing pressing human rights crises. Note: On September 28, 2009, Guinean government authorities killed 157 people during a pro-democracy gathering in a stadium in Conakry. Secretary-General Ban commissioned a report to document the events of September 28, resulting in a Commission of Inquiry (COI) report that highlighted abuses committed by government authorities against civilians, including murder, rape, and arbitrary detention. The COI,s report also suggests the Office of the High Commissioner for Human Rights (OHCHR) establish an office in Conakry, a recommendation the HRC could endorse. End Note.

18. (SBU) Renewing and strengthening the special procedures mandate for the Democratic Republic of Congo (DRC): The USG remains deeply concerned about the lack of capacity to

prosecute human rights abusers in the DRC security forces, particularly in the military (the FARDC). The USG continues to provide funding to strengthen the Congolese judiciary, including through programs that train judges, prosecutors, and lawyers in both the civilian and military justice sectors to investigate and adjudicate crimes of sexual violence. At the March 2008 HRC session, the independent expert for the DRC was ended in favor of tasking a set of seven thematic rapporteurs with reporting on the human rights situation in the country. We have heard that the EU is interested in creating a DRC special procedure, but they have not committed to leading such an effort. We believe that in order for the resolution to be effective and be adopted, this resolution must have the support of the Africa Group and the government of the DRC. During March 2009 negotiations, we received conflicting information from the GDRC. The DRC mission in Geneva reported that it supported the previous mandate but not the mandate holder, while Kinshasa reported that it

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neither supported the former independent expert nor would it not support a new mandate. Next week the USG plans to demarche in Geneva and Kinshasa to emphasize the importance of running a resolution. At a minimum the seven thematic rapporteurs and the HCHR will report to the HRC during the March session. The USG seeks to reinstate a focused, country-specific mandate or, if this fails, to extend the existing combined thematic mandate regarding human rights in the DRC.

19. (SBU) Managing fallout from the Goldstone Report: During the March HRC session, the USG aims to minimize attention to and controversy over the Goldstone Report, to avoid further damage to S/E Mitchell's peace efforts, and to avoid an unbalanced and counterproductive resolution.. We believe that additional Goldstone-related resolutions now in the Human Rights Council serve no useful purpose when both Israelis and Palestinians need more time to carry out their domestic investigations. If we cannot avoid a product, it should be purely technical, calling on the parties to continue their domestic investigations without setting an artificial timeline for them to complete those investigations. Such a resolution would reinforce the primacy of domestic processes to investigate allegations of human rights abuses and allow those processes time to play out. Note: The Goldstone Report was commissioned by the HRC to investigate Israeli violations of international humanitarian and human rights law during the 2008-2009 conflict in Gaza. The HRC mandate was blatantly unbalanced, focusing exclusively on Israel, and did not call for investigation of Hamas, actions. The fact-finding mission was led by Justice Richard Goldstone of South Africa, who sought to broaden his terms of reference in practice to include Hamas, actions, although the HRC never changed the formal mandate. The U.S. government believes the Goldstone Report to be deeply flawed as a result of its unbalanced focus on Israel, the overly broad scope of its recommendations, the excessively negative inferences it draws about Israel's intentions and actions, its failure to deal with the asymmetrical nature of the Gaza conflict, its failure to assign appropriate responsibility to Hamas for its

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practice of basing operations in civilian-populated urban areas, and its sweeping conclusions of law. On October 16, 2009, the HRC passed a resolution endorsing the recommendations in the Goldstone Report. On January 29, Israel submitted to the UN Secretary General a 46-page update outlining the status of its investigations into alleged violations during the Gaza conflict. The Palestinian Authority also submitted a document to Secretary General Ban transmitting a Presidential Decree dated 25 January establishing an Independent Investigation Commission to follow up on implementation of the recommendations made in

the Goldstone Report with respect to the Palestinians, and a report on the first meeting of the Commission. Both sides are undertaking efforts to investigate alleged violations. The United States believes that Israel has the democratic institutions to allow it to ensure domestic accountability. Hamas is a terrorist organization, and it has neither the ability nor the willingness to examine credibly its deliberate and repeated violations of humanitarian law. End Note. A forthcoming cable will provide additional information and more specific instructions in respect to the Goldstone Report.

¶10. (SBU) Registering support for a resolution or other HRC action spotlighting human rights abuses in Iran: Ahead of the March HRC session and building on momentum generated during the February 15, 2010 Universal Periodic Review of Iran, human rights record, the USG is interested in assessing the degree of support that would be forthcoming at the HRC for a resolution or other HRC action addressing the ongoing human rights abuses in Iran. HRC action on Iran would boost the world body's credibility in addressing critical human rights crises. Initial impressions from host government capitals in response to this demarche request will be essential for informing the USG position moving into March. Note: The human rights situation in Iran, already deeply troubling, has grown significantly worse in the wake of the June 12 presidential elections and particularly during the Shi'a holiday of Ashura on December 26-28. Since June, the government of Iran has carried out a severe crackdown on peaceful protestors, political critics, human rights

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defenders and journalists, and has acknowledged that at least thirty-five individuals died in clashes with security forces, with hundreds more injured, and nearly 4,000 imprisoned (after the June 12 elections and an additional 1,000 were detained in the wake of the Ashura protests). Reports of arbitrary arrests; harassment and arrests of journalists; persecution against religious minorities; extrajudicial killings; and torture and cruel, inhuman, or degrading punishment have been ongoing since June. During the worst violence since the election, at least eight persons and reportedly as many as 37 were killed in clashes with security forces at the Ashura protests on Sunday, December 27. Iran is also running for membership to the Human Rights Council, raising serious concerns that the credibility of the HRC will be further undermined by the presence of this notorious human rights violator on the Council. End note. See reftel C for more information.

¶11. (SBU) Renewing country-specific special procedures mandates for DPRK and Burma: The mandates of the Special Rapporteurs on the Situation of Human Rights in the DPRK and in Burma will expire in March, requiring the HRC to act to renew them. The main co-sponsors of these resolutions, both of which deal with countries that are among the world's most serious human rights abusers, will be the EU as a whole, as in years past. Japan will assist as a main co-sponsor of the DPRK resolution. The USG aims to secure the renewal of these special rapporteurs without the weakening of their mandates. Ahead of the March HRC session, the USG will offer our support to the EU and Japan by lobbying other delegations for their support.

OTHER POTENTIAL ISSUES

¶12. (SBU) Secret Detention Study (IF RAISED ONLY): On January 26, 2010, a group of HRC Special Rapporteurs and other mandate holders issued a joint report on the practice of secret detentions. A majority of the report focuses on the alleged practices of the United States. The Department is working closely with the interagency on a potential response.

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See below for suggested press points. The Africa Group and others may seek to block consideration of the report because of their objection to the Special Rapporteurs undertaking a report of their own accord that the Africa Group believes to be outside their respective mandates. If asked, the United States supports the ability of the Special Rapporteurs to present their report to the HRC through the usual Interactive Dialogue process.

Suggested press points if asked about the USG reaction to the Secret Detention Study:

-- The United States is still in the process of reviewing the report released last night on global practices in relation to secret detention in the context of countering terrorism.

-- The United States is a strong supporter of the Special Mechanisms of the Human Rights Council and encourages robust participation and dialogue within the United Nations human rights system.

-- As a preliminary reaction, though, we note that the report fails to adequately acknowledge the overall change in policy in the Obama Administration. This Administration has clearly reiterated its commitment to the rule of law, transparency, and international law. We have completed an extensive review of detention policy and practices and have gone to great lengths to ensure that they are consistent with international law.

-- We are committed to countering threats in a manner consistent with our values and ideals. As the President reiterated in his speech to the Nobel Committee, &even as we confront a vicious adversary that abides by no rules . . . the United States of America must remain a standard bearer in the conduct of war. That is what makes us different from those whom we fight. That is the source of our strength.8

If pressed:

-- We will continue to review the report.

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REPORTING DEADLINE AND POINTS OF CONTACT

13. (U) Mission Geneva and posts are requested to provide results of engagement with delegations and host governments by February 26, 2010. Please refer questions or comments to IO/HR Gayatri Patel.
CLINTON